

REMARKS

This Application has been carefully reviewed in light of the Final Office Action mailed September 6, 2002 ("Office Action"). At the time of the Office Action, Claims 1-20 were pending in the application. In the Office Action, the Examiner rejects Claims 1-20.

Section 103 Rejections

The Examiner rejects Claims 1, 3, 5-7, 9, 10, 12, 14, 16, 17 and 19 under 35 U.S.C. §103(a) as being unpatentable over U.S. Patent No. 6,192,414 issued to Horn ("*Horn*") and in view of U.S. Patent No. 6,230,181 issued to Mitchell et al. ("*Mitchell*"). Applicant respectfully requests reconsideration of this rejection of Claims 1, 3, 5-7, 9, 10, 12, 14, 16, 17 and 19.

Claim 1 recites, in part, "A system for communicating management information, comprising . . . a first interface card . . . a second interface card . . . and a management card coupled to the first interface card and the second interface card, the management card operable to . . . establish a communication link between a client and a particular one of the first interface card and the second interface card selected in response to a command communicated by the client . . . and communicate management information using the communication link." The *Horn-Mitchell* combination fails to teach, suggest, or disclose these aspects of Claim 1.

At the outset, Applicant respectfully requests that the Examiner withdraw the *Horn-Mitchell* combination as improper. The Examiner's primary reference – *Horn* – specifically teaches away from relevant aspects of Claim 1. A prior art reference must be considered in its entirety, including portions that would lead away from the claimed invention. M.P.E.P. § 2141.02. Applicant asserts that *Horn* specifically teaches away from a "management card operable to . . . establish a communication link between a **client** and a particular one of the first interface card and the second interface card selected **in response to a command communicated by the client**," as recited in Claim 1. In particular, the network connection that is established in *Horn* is between network cards 18 and some external network node. (Col. 3, ll. 36-38 and 52-54). Yet, the connection is made in response to a request communicated by "application 30," not by the external network node with which the connection is made. "Application 30 requests a single network connection from the interface

20. The interface 20 passes this request to the network manager 22. In response to the request the network manager 22 prepares at least two of the protocol stacks 24 to establish a network connection.” (Col. 5, ll. 23-29). By requiring “application 30” to make the request for a network connection, the network connection establishment techniques of *Horn* teach away from a “management card operable to . . . establish a communication link between a **client** and a particular one of the first interface card and the second interface card selected **in response to a command communicated by the client**,” as recited in Claim 1.

Even if the *Horn-Mitchell* combination is proper – which Applicant respectfully traverses – the *Horn-Mitchell* combination still fails to teach, suggest, or disclose various elements of Claim 1. Applicant respectfully traverses the Examiner’s position that *Horn* discloses a “management card” and requests the Examiner to specifically point out a “management card” within the disclosure of *Horn*. The cited portions of *Horn* disclose traditional network cards such as “network cards 604, 606, 608, and 610” (Figure 14, col. 19, ll. 1-14). These “network cards 604, 606, 608, and 610” simply connect with each other using, for example, an Ethernet network or some other independent network. Significantly, none of these “network cards 604, 606, 608, and 610” perform any sort of management operation – much less the management operations recited in Claim 1 – and, therefore, do not teach, suggest, or disclose a “management card” as recited, in Claim 1. At any rate, the Examiner relies upon *Mitchell* to reject various aspects regarding the “management card” of Claim 1.

As to *Mitchell*, Applicant respectfully submits that the Examiner continues to misunderstand various aspects of *Mitchell*. In particular, the Examiner initially relies upon a “management card” of *Mitchell* that includes a “reset push button 32” and “status display 34” in order to “manage reset lines that are dedicated to individual cards.” (Col. 4, ll. 8-14). Applicant respectfully requests the Examiner to cite a particular portion of *Mitchell* that discloses its “management card” as being operable to “establish a communication link between a client and a particular one of the first interface card and the second interface card selected in response to a command communicated by the client” and “to communicate management information using the communication link” as recited, in part, in Claim 1. The Examiner fails to consider these elements of Claim 1 for patentability. This is impermissible. “All words in a claim must be considered in judging the patentability of that claim against the

prior art.” M.P.E.P. § 2143.03. Indeed, the “management card” of *Mitchell* is simply unable to perform the functions recited above. On the contrary the “management card” of *Mitchell* is limited to performing the “shutdown and reset operations” of “embedded system 10.” These “shutdown and reset operations” in no way involve establishing “a communication link between a client and a particular one of the first interface card and the second interface card selected in response to a command communicated by the client” and communicating “management information using the communication link” as recited, in part, in Claim 1.

It appears that the Examiner simply performs a keyword search of the phrase “management card” recited in Claim 1, and then relies upon the mere mention of a “management card” within *Mitchell* that is simply unable to “establish a communication link between a client and a particular one of the first interface card and the second interface card selected in response to a command communicated by the client” and “to communicate management information using the communication link” as recited, in part, in Claim 1.

Confronted by the realization that the “management card” of *Mitchell* fails to teach, suggest, or disclose the various elements of Claim 1, the Examiner relies upon the “gateway card 50” of *Mitchell* to reject the “management card” of Claim 1. In particular, the Examiner argues that the “gateway card 50” of *Mitchell* “performs protocol processing and the placing the calls on a LAN/WAN.” (Office Action, p. 7, ¶ 18). Applicant respectfully submits that the “gateway card 50” of *Mitchell* also fails to teach, suggest, or disclose the “management card” of Claim 1.

First, nowhere does *Mitchell* describe the “gateway card 50” as being operable to “establish a communication link between a client and a particular one of the first interface card and the second interface card selected **in response to a command communicated by the client**,” as recited in Claim 1. The Examiner claims that “LAN/WAN are combinations of Clients and Servers. Clients consist of processor who send the request.” (Office Action, p. 7, ¶ 18). Significantly, however, the Examiner fails to identify any portion of *Mitchell* that suggests the communication of a request by any portion of the “LAN/WAN”. Therefore, even though the Examiner equates the “LAN/WAN” of *Mitchell* to the “client” recited in Claim 1, the Examiner simply fails to identify any sort of “command communicated by the client.”

Moreover, the Examiner's reliance upon the "LAN/WAN" of *Mitchell* to teach a "client" of Claim 1 is inconsistent with the teachings of *Horn*. As discussed above, *Horn* teaches an "application 30" that requests a network connection. (Col. 5, ll. 23-25). The Examiner claims, however, that the "LAN/WAN" of *Mitchell* "send the request." (Office Action, p. 7, ¶ 18). Therefore, by combining *Horn* with *Mitchell*, the Examiner is proposing the modification of *Horn* with the teachings of *Mitchell*. If a "proposed modification or combination of the prior art would change the principle of operation of the prior art invention being modified, then the teachings of the references are not sufficient to render the claims *prima facie* obvious." MPEP §2143.01. Applicant respectfully submits that the principle of operation of *Horn*, which requires the "application 30" to request the network connection, would be changed by the proposed combination with *Mitchell* – which according to the Examiner requires the "LAN/WAN" to "send the request". Thus, even though the Applicant disagrees with the Examiner's interpretation of *Mitchell*, even if the Examiner's interpretation of *Mitchell* were accurate it would change the principle of operation of *Horn*. The Examiner therefore fails to establish a *prima facie* case of obviousness.

Second, nowhere does *Mitchell* describe the "gateway card 50" as being operable to **"communicate management information** using the communication link" as recited, in part, in Claim 1. Indeed, the management operations of *Mitchell* – despite the fact that they are limited to shutdown and reset operations unrelated to the elements of Claim 1 – are handled by the "management card" of *Mitchell* (e.g., reset button 32 and status display 34), not by the "gateway card 50". Therefore, the "gateway card 50" has no reason to – and indeed does not – "communicate management information." Therefore, neither the "management card" nor the "gateway card 50" of *Mitchell* teach, suggest, or disclose the "management card operable to ... establish a communication link between a client and a particular one of the first interface card and the second interface card selected in response to a command communicated by the client ... and communicate management information using the communication link" as recited, in part, in Claim 1.

Applicant respectfully reiterates the argument that the "management card" of *Mitchell* actually teaches away from various elements of Claim 1. The Manual of Patent Examining Procedure (hereinafter "the MPEP") states that "[a] prior art reference must be considered in its entirety, i.e., as a whole, including portions that would lead away from the claimed

invention." MPEP § 2141.02. By shutting down and resetting the embedded system 10 to resemble a "power off condition" (col. 1, l. 40), the "management card" of *Mitchell* effectively **destroys** existing communication links. In this regard, *Mitchell* actually teaches away from a "management card . . . operable to **establish** a communication link," as recited, in part, in Claim 1. The Examiner claims that the "shutting-down and resetting capability . . . has nothing to do with disconnecting the communication." (Office Action, p. 7, ¶ 17). In the very next sentence, however, the Examiner admits that shutting down a system involves taking the system "offline." (Office Action, p. 7, ¶ 17). Applicant respectfully requests the Examiner to explain how a system that has been shutdown so that it is "offline" – such as the system of *Mitchell* – is able to establish, or even maintain, a "communication link." Applicant respectfully traverses the Examiner's position and submits that taking a system "offline" suggests to one of skill in the art to disconnect communication links. At the very least, a system that is being "shutdown and reset" suggests against establishing a communication link.

Moreover, *Mitchell* specifically states that the "novelty of the present invention is believed to be in gracefully shutting down and resetting the **embedded system**." (Col. 4, ll. 58-60). The embedded system 10 of *Mitchell* includes "embedded application 20" (*see, e.g., Mitchell* - FIGURE 1) which in turn includes each of the cards 22-27 (*see, e.g., Mitchell* - FIGURE 2). This means that by "shutting down and resetting the embedded system," *Mitchell* shuts down and resets each of the cards 22-27 of embedded application 20. Such a shutdown and reset of cards 22-27 suggests disconnecting any communication links associated with cards 22-27. The embedded system 10 of *Mitchell* also includes "computing engine 30" which is coupled to "network interface 40" (*See, e.g., Mitchell* – FIGURES 2 and 3). This means that by "shutting down and resetting the embedded system," *Mitchell* shuts down and resets "computing engine 30". Such a shutdown and reset of "computing engine 30" suggests disconnecting any communication links facilitated by "computing engine 30." In this regard, *Mitchell* specifically teaches away from Claim 1.

As the Examiner's primary reference specifically teaches away from Claim 1, the Examiner's secondary reference specifically teaches away from Claim 1, and the modification of the primary reference by the secondary reference changes the principle of operation of the primary reference, the Examiner has failed to establish a *prima facie* case of

obviousness under 35 U.S.C. § 103. For at least these reasons, and because the proposed *Horn-Mitchell* combination fails to teach, suggest, or disclose the various elements of Claim 1, Applicant respectfully requests reconsideration and allowance of Claim 1.

Claims 3 and 5-6 depend from Claim 1, shown above to be allowable, and recite further limitations that are patentably distinct from the *Horn-Mitchell* combination. For example, the *Horn-Mitchell* combination fails to teach, suggest, or disclose a “processor . . . operable to **configure the management information** for the operating system of the network device associated with the particular interface card,” as recited, in part, in Claim 3. Moreover, the *Horn-Mitchell* combination fails to teach, suggest, or disclose “wherein the management information comprises information used to configure a network device associated with the particular interface card,” as recited, in part, in Claim 6. The Examiner cites the “programmable logic device” (“PLD”) of *Mitchell* (col. 6, ll. 66-67 and col. 7, ll. 1-10) to reject Claims 3 and 6. (Office Action, ¶ 3 and ¶ 5). However, the cited portions of *Mitchell* offer no information regarding configuring “management information” or configuring a “network device.” Instead, the cited portions merely state that the “PLD may be programmed to implement a state machine,” and that the “state machine . . . may be implemented using . . . software” such as software written in “VHDL.” (Col. 7, ll. 3-10). Such an implementation of a state machine using software fails to teach, suggest, or disclose configuring “management information” or configuring a “network device.”

The Examiner states that the “*Mitchell* reference does go into configuring of the system through interface card that is similar to programming the state machine (col. 7, ll. 3-10). “Configuring” and “programming” are just two different words with the same meaning.” (Office Action, p. 7, ¶ 20). Applicant respectfully traverses the Examiner’s position. Whether or not “configuring” and “programming” mean the same thing, the functionality of the “programming” efforts of *Mitchell* are not the same as those recited in Claims 3 and 6. In particular, *Mitchell* is limited to a “programmable logic device that may be programmed to perform the **functions of the shutdown and reset manager 60.**” (Col. 7, ll. 1-2). The “functions of the shutdown and reset manager 60” have nothing to do with configuring “**the management information** for the operating system of the network device associated with the particular interface card” (Claim 3) “wherein the management information comprises information used to configure a network device associated with the

particular interface card” (Claim 6). For at least these reasons, Applicant respectfully requests reconsideration and allowance of Claims 3 and 5-6.

Claim 7 recites, in part, “A method for communicating management information performed by a management card, comprising . . . receiving a command from a client, the command identifying a particular one of a first interface card and a second interface card . . . establishing a communication link between the client and the particular interface card in response to receiving the command . . . and communicating management information using the communication link.” As stated above with regard to Claim 1, the *Horn-Mitchell* combination is improper. Moreover, the *Horn-Mitchell* combination fails to teach, suggest, or disclose various aspects of Claim 7. For example, the *Horn-Mitchell* combination fails to teach, suggest, or disclose “receiving a command from a client, the command identifying a particular one of a first interface card and a second interface card . . . establishing a communication link between the client and the particular interface card in response to receiving the command . . . and communicating management information using the communication link.” To reject these portions of Claim 7, the Examiner makes a vague and confusing argument. In particular, the Examiner argues that “Any LAN/WAN network has a network switch in order to transmit the data among the computers. The network switch has multiple slots for different interface cards.” (Office Action, p. 8, ¶ 21). The Examiner’s arguments have nothing to do with the elements of Claim 7. For at least these reasons, and for those stated above with regard to Claim 1, Applicant respectfully requests reconsideration and allowance of Claim 7.

Claims 9, 10 and 12 depend from Claim 7, shown above to be allowable. For at least these reasons, and for those stated above with regard to Claims 3 and 5-6, Applicant respectfully requests reconsideration and allowance of Claims 9, 10 and 12.

Amended Claim 14 recites, in part, “A management card, comprising . . . a switch coupled to a first interface card and a second interface card . . . and a processor coupled to the switch and operable to . . . receive a command communicated by a client, the command identifying a particular one of the first interface card and the second interface card . . . and command the switch to establish the communication link between the client and the particular interface card.” As stated above with regard to Claim 1, the *Horn-Mitchell* combination is improper. Moreover, nowhere does the *Horn-Mitchell* combination disclose a “management

card” that comprises a “switch.” The Examiner simply ignores this limitation of Claim 14. This is impermissible. “All words in a claim must be considered in judging the patentability of that claim against the prior art.” M.P.E.P. § 2143.03 (citing *In re Wilson*, 424 F.2d 1382, 165 U.S.P.Q. 494, 496 (C.C.P.A. 1970)).

Applicant respectfully submits that the switch 140 of U.S. Patent No. 6,393,483 to Latif et al (“*Latif*”), although not specifically relied upon by the Examiner, does not overcome the deficiencies of the *Horn-Mitchell* combination. As described below with regard to Claim 2, the switch 140 of *Latif* is located “within network 110” (col. 6, ll. 13-17).

In this regard, switch 140 of *Latif* is nothing more than a traditional network switch (col. 6, ll. 31-35). The Examiner’s argument actually supports the Applicant’s position. For example, the Examiner states that “any **Network** switch has built in interface card slots that can be added or deleted on the size of the network.” (Office Action, p. 8, ¶ 22). Therefore, the Examiner admits that he is relying upon a traditional “network switch.” Such a traditional network switch is not a part of a “management card” as recited in amended Claim 14. In response, the Examiner argues that the “NIC of *Latif*’s reference does have the management capability.” The Examiner is mistaken. The cited portion of *Latif* is limited to using an “NIC **driver** for managing loads over the multi-port NIC...” (col. 5, ll. 1-3). Therefore, it is the “NIC **driver**” – not the NIC – that has management capability if at all. As a result, the Examiner’s reliance upon traditional “network switches” and their “built in interface card slots” is misplaced and does not teach, suggest, or disclose the elements of Claim 14. For at least these reasons, and for those stated above with regard to Claim 1, Applicant respectfully requests reconsideration and allowance of Claim 14.

Claims 16, 17 and 19 depend from amended Claim 14, shown above to be allowable. For at least these reasons, and for those stated above with regard to Claims 3 and 5-6, Applicant respectfully requests reconsideration and allowance of Claims 16, 17 and 19.

The Examiner rejects Claims 2, 4, 8, 11, 13, 15, 18 and 20 under 35 U.S.C. §103(a) as being unpatentable over *Horn, Mitchell*, and in view of U.S. Patent No. 6,393,483 issued to Latif et al. (“*Latif*”). Applicant respectfully requests reconsideration of this rejection of Claims 2, 4, 8, 11, 13, 15, 18 and 20.

Claim 2 recites, in part, “wherein the management card comprises . . . a switch operable to establish the communication link between the client and one of a first port and a second port of the management card . . . a memory operable to store mapping information associating the first port with the first interface card and the second port with the second interface card . . . and a processor coupled to the memory and the switch, the processor operable to . . . receive the command identifying a particular interface card . . . determine the port associated with the particular interface card using the mapping information . . . and command the switch to establish the communication link between the client and the determined port.” The Examiner acknowledges that the *Horn-Mitchell* combination fails to teach, suggest, or disclose these aspects of Claim 2. (Office Action, ¶ 11). The Examiner therefore relies upon *Latif* to reject these aspects of Claim 2. As described above with regard to Claim 14, the Examiner’s reliance upon *Latif* is misplaced.

At the outset, the Examiner fails to consider each and every limitation of Claim 2. “All words in a claim must be considered in judging the patentability of that claim against the prior art.” M.P.E.P. § 2143.03. In particular, Claim 2 recites, in part, “wherein the **management card** comprises . . . a switch . . . a memory . . . and a processor.” *Latif* simply fails to consider a “management card.” For example, the switch 140 of *Latif* is located “within network 110” (col. 6, ll. 13-17) not as a part of a “management card” as recited in Claim 2. Moreover, as stated above, it is the “NIC driver” – not the NIC – that has management capability if at all. In this regard, switch 140 of *Latif* is nothing more than a traditional network switch (col. 6, ll. 31-35). The Examiner’s reliance upon a traditional network switch to reject Claim 2 reveals that the Examiner fails to appreciate the arrangement of elements within the “management card” of Claim 2.

Claim 2 further recites, in part, “wherein the management card comprises . . . a switch operable to establish the communication link between the client and one of a first port and a second port **of the management card**.” The traditional network switch 140 of *Latif* transmits data from one of multiple ports **of a particular NIC** to a host. (col. 6, ll. 47-67), but simply fails to establish a communication link between a client and a port “**of the management card**.” Claim 2 further recites, “a processor . . . operable to . . . receive the command identifying a particular interface card.” The cited portions of *Latif* simply fail to disclose such a “command identifying a particular interface card.” (Col. 6, ll. 13-67). For at

least these reasons, and because Claims 2 and 4 depend from Claim 1 shown above to be allowable, Applicant respectfully requests reconsideration and allowance of Claims 2 and 4.

Claims 8, 11, and 13 depend from Claim 7 shown above to be allowable. For at least these reasons and for those stated above with regard to amended Claim 2, Applicant respectfully requests reconsideration and allowance of Claims 8, 11, and 13.

Claims 15, 18, and 20 depend from amended Claim 14 shown above to be allowable. For at least these reasons and for those stated above with regard to amended Claim 2, Applicant respectfully requests reconsideration and allowance of Claims 15, 18, and 20.

CONCLUSION

Applicant has made an earnest attempt to place this case in condition for allowance. For the foregoing reasons, and for other reasons clearly apparent, Applicant respectfully requests full allowance of all pending claims.

If the Examiner feels that a telephone conference would advance prosecution of this Application in any manner, the Examiner is invited to contact Samir A. Bhavsar, Attorney for Applicant, at the Examiner's convenience at (214) 953-6581.

Although no fees are believed due, the Commissioner is hereby authorized to charge any fees or credit any overpayment to Deposit Account No. 02-0384 of Baker Botts L.L.P.

Respectfully submitted,

BAKER BOTTS L.L.P.
Attorneys for Applicant



Samir A. Bhavsar
Reg. No. 41,617

Date: September 30, 2002

BAKER BOTTS L.L.P.
2001 Ross Avenue, Suite 600
Dallas, Texas 75201-2980
(214) 953-6581